

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD A. BRINSKELE,

No. C-13-MISC-80094 JSW (DMR)

Plaintiff,

**ORDER SETTING SHOW CAUSE
HEARING**

v.

UNITED STATES OF AMERICA,

Defendant.

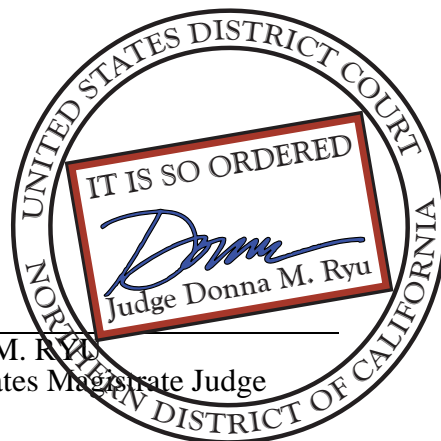
On April 30, 2013, the United States registered and filed in this Court a judgment against Plaintiff and Judgment Debtor Edward A. Brinskele that was entered by the United States Court of Federal Claims in September 2009. [Docket No. 1 (Judgment).] On October 24, 2013, the Clerk issued a writ of garnishment to Vir2us, Inc. (“Vir2us”) as Garnishee for the purpose of garnishing property in which Brinskele has a substantial interest to satisfy the judgment. [Docket No. 13 (Writ of Garnishment).] Vir2us’s answer to the writ was due on November 12, 2013. (Yang-Green Decl, Nov. 22, 2013, ¶ 3.) It failed to answer, and the United States moved for an Order to Show Cause directed to Vir2us on November 22, 2013, seeking an order requiring Vir2us to appear before the court to answer the writ. [Docket No. 16.] The court granted the United States’s motion for an Order to Show Cause and set a hearing on January 23, 2014 for Vir2us to appear and show cause why it failed to comply with the writ of garnishment and why the court should not enter judgment against Vir2us in accordance with 28 U.S.C. § 3205(b)(6). [Docket No. 19.]

The court held a hearing on January 23, 2014. Vir2us failed to appear through counsel. Instead, Brinskele appeared and attempted to challenge service of the writ of garnishment on Vir2us. Given Brinskele's representations that Vir2us was in the process of retaining counsel in connection with this matter, the court did not hold the order to show cause hearing and instead ordered Vir2us to file a notice of appearance by counsel by January 27, 2014. [Docket No. 22 (Minute Order).] No notice of appearance was filed on behalf of Vir2us by the deadline, and on February 12, 2014, the United States filed a motion for money judgment and order compelling answer against Vir2us on the grounds that Vir2us failed to appear and show good cause why it failed to comply with the writ on January 23, 2014.¹ [Docket No. 25.] However, as noted, the court did not hold the order to show cause hearing on that date. **Therefore, the court will give Garnishee Vir2us one more opportunity to appear before this court and show cause why it failed to comply with the writ of garnishment and why the court should not enter judgment against Vir2us. On April 10, 2014 at 11:00 a.m.,** at the U.S. District Court, 1301 Clay Street, Oakland, California 94612 (for courtroom number and floor information, please check the Court's on-line calendar at <http://www.cand.uscourts.gov> (click "Calendars - Judges' Weekly Calendars" link, then select Judge Ryu's calendar)), Garnishee Vir2us shall appear before this court and 1) show cause, if any, why it failed to comply with the writ of garnishment issued on October 24, 2013 and why the court should not enter judgment against Garnishee Vir2us for the value of Judgment Debtor Edward Brinskele's nonexempt interest in property that was and is within the Garnishee's custody, control or possession as of October 28, 2013, and 2) answer the writ of garnishment.

IT IS SO ORDERED.

Dated: April 3, 2014

DONNA M. RYU
 United States Magistrate Judge



¹ On February 20, 2014, an attorney filed an "Amended Appearance of Counsel" for "Vir2us Inc., in place and stead of Edward A. Brinskele." [Docket No. 28.]